



March 5, 1998

VIA FEDERAL EXPRESS

Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street N.W., Room 222
Washington, DC 20554

Dear Ms. Salas:

**Re: CCD No. 96-128; In the Matter of Implementation of the Pay Telephone
Reclassification and Compensation Provisions of the Telecommunications
Act of 1996**

Enclosed for filing in the above captioned matter are an original and four (4) copies of a Petition of Six Companies for Waiver of the Implementation Date for Payphone Specific Coding Digits. We trust that the enclosed will be found in order for filing and grant. We have also enclosed one copy to be stamped and returned in the enclosed self-addressed stamped envelope.

Should you require any further information, or have any questions regarding this filing, please call either Jeff Smith or Jack Pendleton at (503) 624-7075¹ or Chris Pilgrim at (719) 594-5828.

Sincerely,

A handwritten signature in cursive script that reads "Leslie Christina Pilgrim". The signature is written in black ink and is positioned above the printed name.

Leslie Christina Pilgrim

Enclosures

cc: Service List

¹ After March 27, Mr. Smith and Mr. Pendleton's number will be 503-612-4400.

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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)

Implementation of the Pay Telephone)

Reclassification and Compensation)

Provisions of the Telecommunications Act)
of 1996)

CC Docket No. 96-128

PETITION OF SIX (6) LOCAL EXCHANGE CARRIERS FOR WAIVER OF THE
MARCH 9, 1998 IMPLEMENTATION
DATE FOR TRANSMITTING PAYPHONE CODING DIGITS

GVNW, Inc./Management
2270 LaMontana Way
Colorado Springs, Colorado 80918

Date Submitted: March 5, 1998

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Attachment A- List of Local Exchange Carriers that require additional time to
provide FLEX ANI for transmitting payphone coding digits

Attachment B - List of Local Exchange Carriers that intend to use LIDB for
transmitting payphone coding digits

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PETITION OF SIX (6) LOCAL EXCHANGE CARRIERS FOR WAIVER OF THE
MARCH 9, 1998 IMPLEMENTATION
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I. Introduction

Six (6) local exchange telephone companies ("the Companies")¹, by their consultant, hereby request a waiver of the requirement that all Local Exchange Carriers ("LECs") transmit payphone coding digits by March 9, 1998.² Each of the petitioners was anticipating that the Commission would be providing additional guidance on related payphone issues prior to the filing of this request for waiver. With only a few days to go before the March 9 date, this further guidance has not yet been released. Thus, these waiver requests are being made, in the event that the Commission does not issue further orders specific to payphone coding digits prior to March 9, 1998, for the following reasons: 1) in some cases, companies need additional time to implement a FLEX ANI option (see Attachment A); and 2) in one case, a company has implemented a LIDB

¹ The LECs are listed on the cover sheets of Attachments A and B.

approach and would require a waiver if the Commission mandates FLEX ANI as the only allowed means for the LEC to transmit the payphone specific coding digits required by the Payphone Orders (Attachment B).

The Companies will show good cause that a waiver of the Commission's Order is necessary, appropriate, and is in the public interest. The purpose of the instant petition is to demonstrate that the granting by this Commission of the requested relief is in the public interest.

Section 1.3 of the Federal Communications Commission's rules permits (the Commission) to authorize a waiver of its rules "if good cause is therefore shown."³ A waiver of the Federal Communications Commission's rules is appropriate if special circumstances warrant a deviation from the general rule⁴ and such a deviation will serve the public interest.

II. Background

In the *Payphone Orders*, the Commission imposed a requirement that by October 7, 1997, LECs provide payphone-specific coding digits to payphone service providers (PSPs), and that PSPs provide those digits from their payphones to interexchange carriers (IXCs).⁵ On its own motion on October 7, 1997, the FCC granted a limited waiver of five

² *In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket 96-128, Order at para. 2 (rel. October 7, 1997). (hereafter October 7, 1997 Order)

³ 47 C.F.R. § 1.3

⁴ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990), *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969).

⁵ See *Report and Order*, 11 FCC Rcd at 20.691 paras 98-99, *Order on Reconsideration* 11 FCC Rcd at 2165-66 para 64 and 21.278-80 paras 93-99.

months, until March 9, 1998, to those LECs and PSPs that cannot provide payphone-specific digits as required by the *Payphone Orders*.

Prior to the FCC granting a waiver, on September 30, 1997, USTA filed its petition for waiver, "requesting a waiver or declaratory Order of the Commission's Order in this proceeding such that local exchange carriers ("LECs") may use existing technologies and methods to provide coding digits that identify payphone calls."⁶ Currently, two alternatives are available to LECs: 1) FLEX ANI and 2) LIDB. Either of these alternatives satisfy the requirement to transmit the payphone specific coding digits so IXC's have a means to track the compensable calls.

At the heart of the issue is the vehicle to be used by LECs when transmitting payphone coding digits. The issue of the transmission technology has not been clarified as the IXC's advocate that all LECs should use FLEX ANI in their apparent desire to avoid the query charges that are inherent in the LIDB option. As pointed out in USTA's petition (page 1), "*controversy has been generated in the LEC, IXC, and PSPs industries by varying interpretations of the Commission's Payphone Orders regarding the obligation of LECs to provide coding digits that are then used by IXC's to track payphone calls to compensate PSPs.*" This uncertainty has delayed changes and timing for the petitioning small companies because they have been working under the premise that either LIDB or FLEX ANI will satisfy the transmission requirement.

III. A Waiver of the Commission Rules is Necessary and in the Public Interest

⁶ Petition for Waiver of the United States Telephone Association, filed Sept. 30, 1997.

Waivers are needed for differing sets of circumstances

For the petitioning LECs, there are two sets of circumstances at present. To this point, the petitioners have concluded that both FLEX ANI and LIDB technologies are permissible options to meet the payphone coding digit requirements. Recently, industry discussions have indicated that the use of FLEX ANI may be mandated. This creates a variety of problems for the petitioning companies as the technical and financial ability of these LECs to provide payphone-specific information for per-call tracking purposes varies from company to company. Resolution of the controversy surrounding the method prescribed to pass the coding digits is crucial to the petitioning Companies. Small companies are faced with balancing the needs of their IXC customers with implementing cost effective network requirements.

In the two attachments, the petitioners have been placed in two groups based on the nature of the relief requested. Attachment A includes LECs that are pursuing a FLEX ANI solution, but will not be ready by March 9, 1998. Attachment B lists a LEC for which a LIDB approach proves to be the economically prudent technology.

**ATTACHMENT A DISCUSSES LOCAL EXCHANGE CARRIERS THAT
REQUIRE ADDITIONAL TIME TO PROVIDE FLEX ANI FOR
TRANSMITTING PAYPHONE CODING DIGITS**

For those with FLEX ANI capability, the high cost relative to the number of payphones has delayed its implementation. In this regard, petitioners cite the experience of other

LECs that the Commission itself noted in a related proceeding.⁷ As included in the footnote cited, the Commission notes the experience of the following carriers:

Ameritech maintains that it has installed Flex ANI in 400 of its 671 end offices, but has received only 34 requests for OLS services all from the same interexchange carrier...PRTC contends that it has installed Flex ANI in 7 of its 32 central offices and has not yet received a single request for OLS service. Likewise, Bell South maintains that it has converted 752 of 880 of its end office switches to provide Flex ANI, but it has never received a request for OLS service...NYNEX requests a waiver of the requirement for 68 non-digital switches that are nearly all scheduled to be replaced within the next two years. NYNEX claims that because it has not received any orders for OLS service on these switches, the alleged \$1.2 million cost of installing Flex ANI on these switches outweighs any expected benefits.

The FCC has established a precedent of granting additional time in related matters

In a number of prior decisions, the Commission has granted extensions of time to local exchange carriers when circumstances warrant such an extension. In the Local Number Portability docket⁸, the Commission has committed to reducing regulatory burdens on small telephone companies.

In this instant petition, such an extension is warranted and consistent with Commission precedent recognizing the technical and economic burdens imposed on small and rural LECs in implementing software upgrades. In earlier situations⁹, the Commission has granted waivers when such burdens have been demonstrated, as Petitioners have done here in this instant petition and related attachments.

⁷ Memorandum Opinion and Order, CC Docket No. 91-35; FCC DA 96-2169 (rel. December 20, 1996); footnote 17.

⁸ Telephone Number Portability, Second Report and Order, CC Docket No. 95-116; FCC 97-289 (rel. Aug. 18, 1997).

⁹ E.G., Rules and Policies Regarding Calling Number Identification Service - Caller ID, Order and Fourth Notice of Proposed Rulemaking, CC Docket No. 91-281, 10 FCC Rcd 13796, 13808 (1995) (Caller ID Order).

**ATTACHMENT B LISTS LOCAL EXCHANGE CARRIERS THAT INTEND TO
USE LIDB FOR TRANSMITTING PAYPHONE CODING DIGITS**

The Commission itself endorsed LIDB in a related proceeding

In some cases, FLEX ANI is not resident in the switch so that it could be activated by the LEC. Where the switch does not have this inherent capability, the Company is left with either upgrading the current switch software generic or replacing the switch in its entirety, both costly alternatives for the number of payphones involved. In a related payphone docket the FCC noted, *"that while it is technically feasible to add FLEX ANI to most, if not all, LEC end offices, adding this technology to all such end offices can entail significant expenditures."*¹⁰

The Act requires technologically neutral network solutions

The petitioning company should not be required to shoulder the technical, financial and administrative burdens of providing a specific form of payphone coding information such as FLEX ANI when alternative technologies such as LIDB are available and meet the per-call tracking obligations of the IXC's. The intent of the Telecommunications Act of 1996 is that the implementation of services be done on a competitively and technologically neutral basis. Imposing a technology to solely relieve the IXC's from paying a nominal query charge does not meet with the intent of the Act.

Attachment B serves to illustrate the activation/switch replacement costs the Company will experience should they be mandated to implement a FLEX ANI method.

¹⁰ *Memorandum Opinion and Order*, CC Docket NO. 91-35, released December 20, 1996, at para.8.

The petitioner listed in Attachment B weighed their best alternatives to meet the FCC's transmission requirement. To implement a technology such as FLEX ANI for the sole purpose of transmitting payphone specific digits to IXC's is the antithesis of prudent public policy for this small company. For these reasons, it is prudent for the Company to seek a waiver that allows them to use a technology that is conducive to their current network configurations and minimizes capital expenditures. This serves in the interest of the public while allowing the Company to comply with the FCC's Order of transmitting payphone specific coding digits.


Additionally, in other Commission matters¹¹, the Commission has committed to reducing regulatory burdens on small telephone companies. Granting this waiver request for Petitioners is consistent with this objective. Grant of this waiver provides for the ongoing compliance with the order using a technology that accomplishes the same result as FLEX ANI. For the petitioning Company, LIDB is a cost effective means of complying with the FCC's transmission requirement. LIDB provides a company wide implementation whereas FLEX ANI is installed one end office at a time.

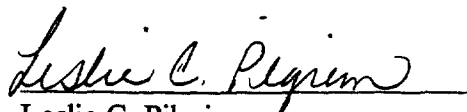
¹¹ Amendment of the Commission's Rules to Establish Competitive Service Safeguards for Local Exchange Carrier Provision of Commercial Mobile Radio Services, Implementation of Section 601(d) of the Telecommunications Act of 1996, WT Docket No. 96-162, FCC 97-352 (rel. Oct. 3, 1997)

IV. Conclusion

The impact of an extension of the deadline or ability to implement a technologically neutral solution on other parties does not outweigh the burden that would be imposed on any of the petitioners by a denial of the request. The Companies submit that the public interest will be better served by these waivers and that grant of the relief requested in this petition and its attachments would be consistent with the policies underlying these rules. Good cause having been shown, the Companies respectfully request the Commission grant each petitioner the specific relief as so stated in the attachments and grant such other and further relief as may be proper in the premises.

Respectfully submitted,


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ATTACHMENT A

**LIST OF LOCAL EXCHANGE CARRIERS THAT REQUIRE ADDITIONAL TIME
TO PROVIDE FLEX ANI FOR TRANSMITTING PAYPHONE CODING DIGITS**

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Fremont Telecom	2
Miller Telephone Company	3
Scio Mutual Telephone Association	4
Stoneham Cooperative Telephone Corporation	5
Teton Telecom	6

ATTACHMENT A

Fremont Telecom

Fremont Telecom, ("Fremont"), serves rural customers in the state of Idaho. The company will not meet the March 9, 1998 deadline for transmitting payphone coding digits if FLEX ANI is mandated as the means for sending the digits to the PSP. There are approximately 6,000 access lines, with 80 payphone lines that will not be capable of transmitting FLEX ANI by March 9, 1998.

Fremont is not capable of providing either FLEX ANI or an SS7 solution at this time. Fremont and Teton Telecom have jointly acquired their own switch that is capable of FLEX ANI and SS7. However, SS7 links have not been installed to date and coding is required to activate the FLEX ANI feature. Fremont cut their traffic to its own switch on February 23, 1998. US West Communications has informed Fremont that the Idaho Falls tandem switch cannot outpulse FLEX ANI at this time. Fremont will not be able to forward the payphone coding digits to the IXC until such time as US West upgrades software for FLEX ANI.

Based on the aforementioned information, Fremont respectfully requests a waiver until December 31, 1998, to provide payphone coding digits via FLEX ANI.

ATTACHMENT A

Miller Telephone Company

Miller Telephone Company, ("Miller"), provides services to approximately 1038 access lines in Missouri, of which eight (8) are payphone lines that will not be capable of transmitting FLEX ANI.

Currently, Miller, provides service to its customers via a Nortel DMS 10 with the generic software version 403.21. The current software generic is not capable of providing FLEX ANI. Miller received approval for its financing from the Missouri Public Service Commission on January 2, 1998. Miller anticipates having the upgrade complete by March 1, 1999.

Based on the aforementioned information, Miller respectfully requests a waiver until March 1, 1999, to complete its software upgrade and provide FLEX ANI.

ATTACHMENT A

Scio Mutual Telephone Association

Scio Mutual Telephone Association, ("Scio"), serves rural customers in the state of Oregon. The company will not meet the March 9, 1998 deadline for transmitting payphone coding digits if FLEX ANI is mandated as the means for sending the digits to the PSP. There are approximately 1,900 access lines, with 7 payphone lines that will not be capable of transmitting FLEX ANI by March 9, 1998.

Scio is not capable of providing either FLEX ANI or an SS7 solution at this time. Earlier this week, Scio was in the final testing stages of FLEX ANI implementation for its DMS-10 switch. In the final portion of the testing stage, Scio encountered problems at the tandem. Scio must now wait until the software has been modified at the tandem, which is not anticipated to occur prior to the end of the 2Q1998. The FLEX ANI feature will be operational once the problems at the tandem have been resolved. Scio anticipates these problems to be resolved and testing completed by September 30, 1998.

Based on the aforementioned information, Scio respectfully requests a waiver until September 30, 1998, to complete the testing process and necessary revisions to provide payphone coding digits via FLEX ANI.

ATTACHMENT A

Stoneham Cooperative Telephone Corporation

Stoneham Cooperative Telephone Corporation, ("Stoneham"), serves rural customers in the state of Colorado. The company will not meet the March 9, 1998 deadline for transmitting payphone coding digits if FLEX ANI is mandated as the means for sending the digits to the PSP. There are approximately 80 access lines, with two (2) payphone lines that will not be capable of transmitting FLEX ANI by March 9, 1998.

Stoneham does not have either FLEX ANI or an SS7 solution available at this time. The FLEX ANI solution will require a software generic upgrade at an estimated cost of \$25,000. Economic constraints have prevented the company from implementing either alternative. Stoneham anticipates the software upgrade to be completed by January 31, 1999.

Imposing a software upgrade specifically for transmitting payphone digits will impose an economic hardship on the company which does not serve the public interest. Based on the aforementioned, Stoneham respectfully requests a waiver until January 31, 1999, to complete its software upgrade and provide FLEX ANI.

ATTACHMENT A

Teton Telecom

Teton Telecom, ("Teton"), serves rural customers in the state of Idaho and Wyoming. The company will not meet the March 9, 1998 deadline for transmitting payphone coding digits if FLEX ANI is mandated as the means for sending the digits to the PSP. There are approximately 3,000 access lines, with 40 payphone lines that will not be capable of transmitting FLEX ANI by March 9, 1998.

Teton is not capable of providing either FLEX ANI or an SS7 solution at this time. Teton and Fremont Telecom have jointly acquired their own switch that is capable of FLEX ANI and SS7. However, SS7 links have not been installed to date and coding is required to activate the FLEX ANI feature. Teton will cut their traffic to its own switch on March 11, 1998. US West Communications has informed Teton that the Idaho Falls tandem switch cannot outpulse FLEX ANI at this time. Teton will not be able to forward the payphone coding digits to the IXC until such time as US West upgrades software for FLEX ANI.

Based on the aforementioned information, Teton respectfully requests a waiver until December 31, 1998, to provide payphone coding digits via FLEX ANI.

ATTACHMENT B

**LIST OF LOCAL EXCHANGE CARRIERS INTENDING TO USE LIDB FOR
TRANSMITTING PAYPHONE CODING DIGITS**

<u>Company</u>	<u>Page</u>
Webb-Dickens Telephone Corporation	2

ATTACHMENT B

Webb-Dickens Telephone Corporation

Webb-Dickens Telephone Corporation, ("Webb-Dickens"), serves rural customers in Iowa. The company will not meet the March 9, 1998 deadline for transmitting payphone coding digits if FLEX ANI is mandated as the means for sending the digits to the PSP. There are approximately 460 access lines of which there is one (1) payphone line that will not be capable of transmitting FLEX ANI by March 9, 1998.

An SS7 based solution is currently available through the LIDB provider. Implementing a LIDB solution would enable the company to transmit the appropriate payphone coding digits by March 9, 1998. Webb-Dickens is in the process of upgrading its Nortel switch software generic to 403.31, to comply with the CIC/CAC requirements. This software generic is not capable of FLEX ANI. Webb-Dickens is currently analyzing its total network requirements to determine the most cost prudent and efficient means of providing service to its customers, as well as meet regulatory demands. Webb-Dickens is anticipating upgrading its network and switches in late 1999 or early 2000, at which time it would be capable of providing FLEX ANI.

Imposing a software upgrade specifically for transmitting payphone digits does not serve in the public interest, especially when an alternate means is available and accomplishes the same goal. While we believe that the record in this proceeding to date would indicate our compliance, this waiver is being requested in the event that the FCC mandates FLEX ANI as the only option.